

Nos. 12-15757, 12-15782

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

**IN RE MAGSAFE APPLE POWER ADAPTER
LITIGATION,**

**NAOTAKA KITIGAWA, JR.; TIMOTHY J. BROAD; JESSE REISMAN;
TRACEY HACKWITH; MAXX SCHOLTEN; MICHAEL MARTIN,**

Plaintiffs- Appellees,

MARIE E. NEWHOUSE; ROBERT J. GAUDET, JR.,

Objectors-Appellants,

v.

APPLE INC.,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of California, The Honorable James Ware
(No. 5:09-cv-01911-JW)

**RESPONSE TO APPELLANT NEWHOUSE’S MOTION TO
ALLOCATE ORAL ARGUMENT TIME, DISMISS APPEAL NO. 12-15757,
OR SEVER APPEAL NO. 12-15757 FOR ORAL ARGUMENT**

Defendant-appellee Apple Inc. respectfully opposes appellant Newhouse’s motion to the extent she seeks to sever her appeal from appellant Gaudet’s appeal (No. 12-15757) for oral argument. Both the Newhouse and Gaudet appeals arise from the same district court order and judgment, and they involve the same facts and the same issue: whether the district court correctly approved the settlement of

this consumer class action. Under these circumstances, separate oral arguments are unwarranted.

This litigation is a consumer class action regarding the 60- and 85-watt MagSafe Power Adapters that Apple sold with certain MacBook and MacBook Pro portable computers. On March 8, 2012, the district court granted final approval of a class action settlement in this case under Federal Rule of Civil Procedure 23. The district court entered judgment on April 2, 2012. Appellant Newhouse and appellant Gaudet are both non-party objectors to the settlement, and they appeal from the same final approval order.

On that basis, Apple moved for, and this Court granted, consolidation of these appeals. No. 12-15782, Dkt. Nos. 8, 10. Newhouse did not oppose the consolidation of the appeals, so long as she could file her own briefs. No. 12-15782, Dkt. Nos. 8, 9. She has since filed her own opening and reply briefs. Yet she now seeks effectively to undo the consolidation, seeking a separate oral argument from the argument in the Gaudet appeal. The Court's consolidation of these appeals was warranted, and there is no basis to hold separate oral arguments in this appeal from the same final judgment.

For the foregoing reasons, Apple respectfully requests that the Court deny appellant Newhouse's motion insofar as the motion seeks to sever the appeals for oral argument. Apple takes no position on the remainder of appellant Newhouse's motion.

Dated: March 14, 2014

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on March 14, 2014.

I certify that counsel of record in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

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